

30 January 2014

Ms. Vivian Chin  
United State Environmental Protection Agency - Region 2  
Pesticides & Toxic Substances Branch  
2890 Woodbridge Avenue  
Mail Code MS-105  
Edison, New Jersey 08837-3679

**Re: PCB Remediation Waste  
Mana Art Center, LLC  
Buildings 4 & 5  
50 Dey Street  
Jersey City, New Jersey 07310  
Langan Project No. 100412101**

Dear Ms. Chin:

Langan Engineering & Environmental Services (Langan), on behalf of our client and project owner, Mr. Moishe Mana, Mana Art Center, LLC. (Mana), is providing this correspondence to document administrative notification of the cleanup and disposal of PCB remediation waste at the aforementioned project. The PCB remediation waste cleanup and disposal conforms with 761.61(a) and (b). The remediation approach is intent on utilizing the existing suite of data, providing appropriate administrative documentation, and is also protective for future users. By proactively interacting with the United States Department of Environmental Protection (USEPA), it is Mana's desire to remediate PCB remediation waste at the property in accordance with 761.61.

To aid the reader in understanding the remediation of the PCB remediation waste, a brief narrative of the project's evolution including identified PCB remediation waste, followed by cleanup and disposal administrative strategy.

### **Project Evolution for Conformance with 761.61(a)**

#### **Self-Implementation PCB Remediation Plan (SIRP)**

A Self-Implementation PCB Remediation Plan (SIRP), dated December 2012, was submitted to the USEPA which detailed PCB sampling results of the interior portion of Buildings 4 & 5 of the project Site, and the proposed PCB remediation waste disposal operations. The SIRP was generated and submitted to the USEPA utilizing the promulgated regulations contained in 40

CFR 761.61(a). The results of the *SIRP* effectively depict that the wood block floor contains PCB concentrations that typically range from 0.5 mg/kg to 25.5 mg/kg, while the samples from the concrete underlying the wood block floor contains PCB concentrations that typically range from Non-Detected (ND) to 2.4 mg/kg. The remedial strategies presented as part of this *SIRP* included removal of PCB impacted materials (e.g. wood block flooring, concrete) to concentrations below 10.0 mg/kg, where after engineering cap may be implemented.

#### Focused SIRP Addendum (FSIRP-A)

A Focused SIRP Addendum (FSIRP-A), dated May 15, 2013, was submitted to the USEPA and provided an update regarding the progress of the remediation on Site, and also included detailed additional sampling laboratory analytical sampling results previously requested by the USEPA for the disposal of the PCB impacted material (e.g. wood). Specifically the non-hazardous PCB impacted wood block flooring was being removed and staged on Site in 1 cubic yard boxes, pending off-site disposal approval.

Via a correspondence dated June 4, 2013 (**Appendix A**), the USEPA provided approval of the proposed off-site disposal facility for the non-hazardous PCB impacted wood block flooring as "bulk PCB remediation waste". This June 4, 2013 correspondence also identified a need for additional approvals for subsequent phases of remediation. Most specifically a comprehensive plan for the PCB remediation for all floors (1-7, Buildings 4 & 5) would be required.

#### USEPA PCB Self Implementation Plan II (SIP)

A USEPA PCB Self Implementation Plan II (SIP), dated December 4, 2013, was submitted to the USEPA consistent with 40 CFR 761.61(a), to address the need for a comprehensive remedial plan for the PCB impacted media (e.g. concrete). This *SIP* distilled all of previously completed Site sampling operations, and also presented the proposed PCB remedial mechanisms including wood block removal, concrete scarification/sandblasting, potential encapsulation of PCB impacted concrete, and the post remediation verification sampling of the concrete flooring.

#### USEPA Responses to the PCB Self Implementation Plan II (SIP)

Via a correspondence dated December 23, 2013 (**Appendix B**), the USEPA provided responses to the December 4, 2013 *SIP*. The comments were focused on the strategies included in the *SIP* and identified the need for different data presentations, the need for additional concrete investigation samples prior to remedial implementation, concrete wall and ceiling delineation sampling requirements, and the applicability and requirements associated with engineered caps and deed notices as part of risk based disposal per 40 CRFR 761.61 (c).

### Alternative Non-Hazardous PCB Impacted wood Block Disposal Approval

To maintain project advancement, and capture favorable market conditions and disposal rates, a request was forwarded to the USEPA via email on January 7, 2014 to require an update to the disposal facility location for the non-hazardous PCB impacted wood block flooring as "bulk PCB remediation waste". The USEPA responded favorably to the updated disposal facility request, and via correspondence dated January 15, 2014, approved a new facility (**Appendix C**).

### **Administrative Strategy for the Remediation of the PCB Remediation Waste**

Reflecting upon the existing data sets, and the USEPA responses and comments regarding the previously submitted documents, Mana is forgoing the possibility of implementing an engineered cap and deed notice by implementing *Risk Based Remediation Plan* pursuant to 40 CFR 761.61 (b). It has been determined that the time required to implement this strategy exceeds the proposed time available for redevelopment.

Therefore Mana is proposing to advance an administrative strategy for remediation of the PCB remediation waste on Floors 1-7, Buildings 4 & 5. Effectively the strategy is based on the existing data sets, and addresses the media type independently.

In essence Mana is seeking to dispose of the wood block flooring, which has consistently expressed low levels of PCBs, at the USEPA preapproved non-hazardous off-site disposal facility (**Appendix C**). This disposal strategy is consistent with the management of the wood block flooring materials to date, and would be administratively supported at the conclusion of said efforts via a report documenting the disposal actions, locations, volumes, manifests, etc.

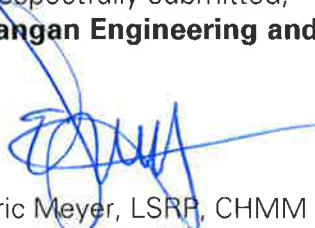
The underlying concrete floors, walls, and ceilings, will be addressed via a *Performance Based Disposal (PBD)* methodology. Effectively this strategy would discontinue the need and/or implementation of the *SIP II* per 40 CFR 761.61 (a), but would substitute 40 CFR 761.61(b). In utilizing the *PBD* methodology, Mana would cleanup and dispose of PCB remediation waste (e.g. concrete floor, walls, and ceiling) to levels below 1.0 mg/kg in an efficient method as possible to permit the advancement of redevelopment operations and use as a *High Occupancy Area*. The means and methods planned for this remediation will include concrete scarification, and post scarification verification sampling consistent with the methods detailed in 40 CFR 761.286. The frequency of the post scarification sampling will include 1/5,000 square feet for the floor biased to former elevated remediation sample locations. The ceiling and wall remedial areas are significantly smaller and expected to be irregularly shaped therefore a sample frequency of 3/400 square feet, or 3 samples per small remediated area will be completed biased to former elevated pre remediation sample locations. All media (e.g. concrete) generated via this *PBD* methodology will be disposed off-site at a hazardous waste landfill permitted by USEPA under section 3004 of RCRA, or by a State authorized under section 3006 of RCRA. An example of a facility considered for the materials disposal per the *PBD* includes Chemical Waste Management facility in Emelle, Alabama (TSCA Permit ID#: ALD 000 622 464).

While post remediation reporting is not required per the *PBD* methodologies, the client has elected to generate an internal report which will document the remedial efforts, and record the disposal actions, locations, volumes, manifests, etc. Confirmation of the off-site hazardous waste material disposal will be forwarded to the USEPA and include copies of the disposal documentation.

Please know that it is Mana's desire to address the PCB remediation waste at the site in an administratively appropriate and technically safe manner, and appreciates the USEPA interaction for this effort. After review of this document please contact Langan to discuss the implementation of the proposed strategies.

Should you have questions or need additional information as part of this review effort, please do not hesitate to contact me.

Respectfully submitted,  
**Langan Engineering and Environmental Services, Inc.**



Eric Meyer, LSRP, CHMM  
Senior Project Manager

Cc/ Mr. Rami Haim, Mana  
Ms. Fran Mulnick Parker Esq., Law Offices of Fran Mulnick Parker  
Mr. Bob Koto, Langan

## **Appendix A**

### **USEPA Correspondence dated June 4, 2013**



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

JUN - 4 2013

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Article Number: 7011 0470 0002 3745 4515

Mr. Moishe Mana  
Mana Art Center, LLC  
215 Coles Street  
Jersey City, New Jersey 07310

**Re: 50 Dey Street Site - Approval for Disposal of PCB Remediation Waste under 40 CFR §761.61(a) and for Characterization Sampling under 40 CFR §761.61(c)**

Dear Mr. Mana:

This is in response to the May 22, 2013 Supplemental Self Implementation Plan (SSIP), submitted by Keystone E-Sciences Group, Inc. on behalf of Mana Art Center, LLC (Mana). The SSIP addresses the first phase of remediation activities at the 50 Dey Street Site, located in Jersey City, New Jersey. This document will be referred to as the "Application". The Application describes the off-site disposal of polychlorinated biphenyl (PCB) remediation waste (wood block floor) that exceeds the cleanup levels under the federal PCB regulations at 40 CFR §761.61(a)(4). Pending approval by the United States Environmental Protection Agency (EPA), subsequent phases of the remediation will be addressed under a separate self-implementation plan.

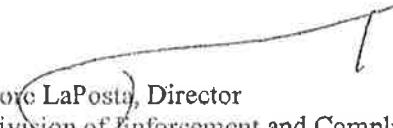
With the exception of the characterization sampling requirements under Subpart N of 40 CFR Part 761, the proposed off-site disposal of the PCB remediation waste meets the self-implementing cleanup and disposal requirements under 40 CFR §761.61(a). Based on the characterization sampling that has been performed, the EPA finds that this sampling, in this proposed remediation context, is acceptable for delineating areas of the PCB remediation waste to be addressed.

EPA hereby approves the Application, and Mana may proceed with the disposal of PCB remediation waste under 40 CFR §§761.61(a), subject to this Approval. This Approval also constitutes an order under the authority of Section 6 of the Toxic Substances Control Act, 15 U.S.C. §2605.

Please note that this Approval does not constitute a determination by EPA that the transporters or the disposal facilities selected by Mana are authorized to conduct the activities set forth in the Application. Mana is responsible for ensuring that its selected transporters and disposal facilities are authorized to conduct any such activities in accordance with all applicable federal, state and local statutes and regulations.

Should you have any questions concerning this matter, please contact Dr. James S. Haklar at (732) 906-6817 or at [haklar.james@epa.gov](mailto:haklar.james@epa.gov).

Sincerely yours,



Dorc LaPosta, Director  
Division of Enforcement and Compliance Assistance

cc: Fran Mulnick Parker, Esq., Law Office of Fran Mulnick Parker  
Daniel Erdman, Keystone E-Sciences Group, Inc.

## **Appendix B**

### **USPEA Correspondence dated December 23, 2013**





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2

2890 WOODBRIDGE AVENUE  
EDISON, NEW JERSEY 08837-3679

**DEC 23 2013**

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Article No. 7012 3460 0002 1650 6320

Mr. Eric Meyer  
Langan Engineering and Environmental Services, Inc.  
River Drive Center 1  
619 River Drive  
Elmwood Park, New Jersey 07407

Re: PCB Self-Implementation Plan II  
Mana Art Center, LLC  
50 Dey Street  
Jersey City, New Jersey

Dear Mr. Meyer:

The United States Environmental Protection Agency (EPA) is in receipt of the December 4, 2013 Self-Implementation Plan (SIP) submitted to address polychlorinated biphenyl (PCB) contamination at the Mana Art Center, Buildings 4 and 5. An Approval limited to disposal of contaminated wood block flooring was issued by EPA letter dated June 4, 2013. The stated remediation goal is to achieve high occupancy use standards.

EPA has reviewed the submission and has the following comments:

- The SIP presents a characterization sampling proposal for Buildings 4 and 5. As the characterization of the buildings is currently incomplete, the notification does not contain the information necessary for EPA review and approval under the self-implementing cleanup standards at 40 CFR § 761.61(a). The notification must be submitted once you can provide all the information at 40 CFR § 761.61(a)(2) and (3). Once additional characterization is obtained and the notification is resubmitted, please present comprehensive figures which depict all (historical and current) sample locations and results for each given story of the building.
- Please note that the characterization sampling protocol can be found at Subpart N of 40 CFR § 761, while the verification sampling protocol can be found at Subpart O of 40 CFR § 761. The notification incorrectly references Subpart O in regards to characterization.

- There is no option under the self-implementing remediation criteria at 40 CFR § 761.61(a) where two layers of epoxy coating could be used to encapsulate residual PCB contamination. Acceptable caps for PCB contamination up to 10 ppm in a high occupancy area are outlined at 40 CFR 761.61(a)(7). An alternative cap could only be approved under a risk-based disposal approval issued pursuant to 40 CFR § 761.61(c) after a satisfactory demonstration that the alternative cap would not pose an unreasonable risk. Capping the interior surfaces of a building as outlined in 40 CFR § 761.61(a)(7) may not be feasible. If that is the case, in order to meet self-implementing cleanup standards the concrete contaminated at levels higher than 1 ppm would need to be decontaminated or removed. Your stated intent is to achieve a level of 1 ppm, with the epoxy coatings discussed as an alternative should you be unable to achieve that level. The notification should reflect that a risk-based disposal approval would be sought from EPA in that eventuality. Also note that a risk-based approval to leave residual PCB contamination at higher levels than 1 ppm would likely include a requirement for long term air monitoring.

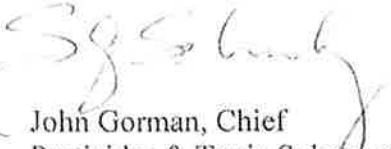
If you were considering the provisions at 40 CFR § 761.30(p), the use authorization for porous surfaces contaminated by an old spill, this would not be applicable to this project as the use of the contaminated surface has changed. This issue was previously addressed in EPA's comments provided electronically on February 7, 2013. Also note that construction of a barrier, such as a drop ceiling, in order to block access to residual PCB contamination between 1 and 10 ppm also does not conform to the self-implementing remediation standards.

- As part of the concrete remediation plan you propose solvent washing or scarification. Please note that per 40 CFR § 761.79(a)(5), decontamination of the concrete surfaces in Buildings 4 and 5 would require an alternate decontamination approval issued pursuant to 40 CFR § 761.79(h). Such approval could be issued in conjunction with the self-implementing remediation approval provided you apply in writing to the Regional Administrator.
- Please note that characterization sampling should delineate the levels of PCB contamination as found, rather than following sandblasting/scarification as discussed in sections 5.4.1.1 and 5.4.1.2 of your notification.
- Additional floor sample data for the 2<sup>nd</sup> floor were apparently obtained in July 2013 and were described as being represented in Appendix F, figures K and L. While figure K shows several sample points, figure L which is supposed to display the results only provides two results with the majority being absent. Please provide that data so that we can evaluate whether your proposed modification to the sampling frequency for floors 1 through 6 appears reasonable. Also note that the notification must present sample collection and analysis dates and the procedures used to sample the contaminated area. While we need the data to evaluate the adequacy of your proposed sample frequency, note that one sample per every 10,000 square feet seems too sparse to be approvable.
- EPA's February 7, 2013 comments also requested bulk sampling of the walls in order to ensure the building interiors are properly characterized. The SIP does not discuss any wall sample data or remediation.

- Please verify that your stated plan for verification sampling via the means/methods outlined in 40 CFR § 761.280 include conformance with the sample frequency specified at 40 CFR § 761.283(b).
- Please note that satisfying the high occupancy use standards through the use of a cap for residual PCB contamination  $> 1$  ppm and  $\leq 10$  ppm would require a deed restriction per 40 CFR § 761(a)(8). While the epoxy encapsulation as proposed is unacceptable for reasons discussed above, please note this requirement should be addressed should your revised application (possibly risk-based) include leaving residual PCB contamination  $> 1$  ppm and  $\leq 10$  ppm with the use of a cap. The SIP only references a deed notice for PCB contamination  $< 1$  ppm in order to satisfy New Jersey Department of Environmental Protection (NJDEP) non-residential use standards.
- 40 CFR § 761.61(a)(3) requires the notification also be provided to the State and county or local environmental protection agency where the cleanup will be conducted. Please provide confirmation that the notification has been provided to the State and county or local environmental protection agency.

Based on these comments EPA cannot approve your plan at this time. Please note, however, that the Agency remains committed to working with you to address the contamination. If you have any questions, please feel free to contact Vivian Chin, of my staff, at 732-906-6179 or at [chin.vivian@epa.gov](mailto:chin.vivian@epa.gov).

Sincerely,



John Gorman, Chief  
Pesticides & Toxic Substances Branch



## **Appendix C**

### **USEPA Correspondence dated January 15, 2014**



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2

2890 WOODBRIDGE AVENUE  
EDISON, NEW JERSEY 08837-3679

JAN 15 2014

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Article Number 7012 3460 0002 1650 6351

Mr. Moishe Mana  
Mana Art Center, LLC  
215 Coles Street  
Jersey City, New Jersey 07310

Re: Modification to June 4, 2013 Approval for Disposal of PCB Remediation Waste under 40 CFR § 761.61(a) and for Characterization Sampling under 40 CFR § 761.61(c)  
Mana Art Center, LLC Property  
50 Dey Street, Jersey City, New Jersey

Dear Mr. Mana:

The United States Environmental Protection Agency (EPA) is in receipt of the January 7, 2014 electronic mail sent on your behalf by Mr. Eric Meyer of Langan Engineering and Environmental Services, Inc. The electronic mail requests a change in the designated disposal facility proposed by the May 22, 2013 notification submitted to address polychlorinated biphenyl (PCB) contamination at the Mana Art Center, LLC Property. EPA issued an Approval dated June 4, 2013.

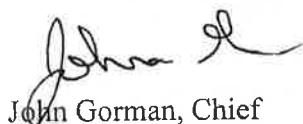
The applicable options for disposal of bulk PCB remediation wastes with a PCB concentration less than 50 ppm are at either an approved PCB disposal facility, a state permitted municipal solid waste or non-municipal non-hazardous waste landfill, or a RCRA Section 3004 or Section 3006 permitted hazardous waste landfill. You have proposed the Tunnel Hill Reclamation Landfill of New Lexington, Ohio as the newly designated disposal site for the material addressed by the May 22, 2013 notification. The Tunnel Hill Reclamation Landfill is a state permitted solid waste landfill.

Limited to the disposal of the 2<sup>nd</sup> and 7<sup>th</sup> story wood flooring under the Approval, the EPA is approving the Modification, and that portion of the remediation may proceed under 40 CFR § 761.61(a), the May 22, 2013 notification and the January 7, 2014 modification request, subject to this modified Approval. This Approval constitutes an order under the authority of Section 6 of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2605.

Please note that this Approval does not constitute a determination by EPA that the transporters or disposal facilities selected for the cleanup are authorized to conduct the activities set forth in the Application. The selected transporters and disposal facilities must conduct these activities in accordance with all applicable federal, state, and local statutes and regulations. Furthermore, any proposed changes or alterations to the scope or schedule of the cleanup, or major timetable shifts once the cleanup is underway, must be submitted in writing to EPA for approval 14 days prior to implementation of the changes.

Should you have any questions concerning this matter, please contact Vivian Chin, of my staff, at (732) 906-6179 or at [chin.vivian@epa.gov](mailto:chin.vivian@epa.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "John Gorman", with a stylized flourish at the end.

John Gorman, Chief  
Pesticides and Toxic Substances Branch

cc: Eric Meyer, Senior Project Manager  
Langan Engineering & Environmental Services, Inc.